



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Memorial Compounding Pharmacy

Respondent Name

Hartford Fire Insurance Company

MFDR Tracking Number

M4-18-3592-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

May 25, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The original bill was submitted to carrier (**VIA CERTIFIED MAIL**) **ON 08/01/2017** ... Memorial did not receive any correspondence as per rule so we submitted a Request for Reconsideration ... The request was submitted and received by the carrier on **10/02/2017** still with no response."

Amount in Dispute: \$569.93

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The attached EOB and Peer Review reflect the disputed bill was denied based upon extent of injury, relatedness and medical necessity ... The Requestor did not request and receive preauthorization for this investigational or experimental compound formulation."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 27, 2017	Pharmaceutical Compound	\$569.93	\$569.93

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.240 sets out the procedures for payment or denial of a medical bill.
2. 28 Texas Administrative Code §133.305 sets out the procedures for resolving medical disputes.
3. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
4. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.
5. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
6. 28 Texas Administrative Code, Chapter 19 sets out the requirements for utilization review.

7. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 1 – A dispensing fee is not applicable to the allowance or payment of the medication.
 - 3 – Charge for pharmaceuticals exceed the fees established by the fee schedule.
 - 91 – Dispensing fee adjustment.
 - P12 – Workers’ compensation jurisdictional fee schedule adjustment.
 - 5223 – Treatment denied based on IME/Record review.
 - 5572 – Per peer review, these services are not authorized
 - 5598 – This service/bill has been denied based on matters involving compensability, extent of injury, disability, MMI and/or impairment rating.
 - W3 – Additional payment made on appeal/reconsideration.
 - 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
 - 1014 – The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.

Issues

1. Is this dispute subject to dismissal due to a compensability or extent of injury issue?
2. Is this dispute subject to dismissal based on medical necessity?
3. Did Hartford Fire Insurance Company (Hartford) raise a new defense in its position statement?
4. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the disputed compound?

Findings

1. Memorial is seeking reimbursement for a compound dispensed on July 27, 2017. Hartford denied the compound, in part, based on compensability or extent of injury. A dispute regarding the relatedness of a service to the compensable injury must be resolved prior to a request for medical fee dispute.¹

The respondent is required to attach a copy of any related Plain Language Notice (PLN) if the medical fee dispute involves compensability or extent of injury. Review of the submitted documentation finds that Flahive, Ogden & Latson failed to attach a copy of a related PLN on behalf of Hartford to support a denial based on compensability or extent of the compensable injury.

The division concludes that the dispute in question is not subject to dismissal as this denial reason was not sufficiently supported.

2. Hartford also denied the disputed compound, in part, based on medical necessity as determined by peer review.

Medical necessity disputes must be resolved prior to submission of a medical fee dispute.² The insurance carrier is required to perform a utilization review before a denial based on medical necessity, including giving the health care provider – in this case, Memorial – an opportunity to discuss the treatment in question.³

Flahive, Ogden & Latson submitted a document on behalf of Hartford, dated February 20, 2017, to support its denial of the disputed compound. The division finds that the submitted document does not support that Hartford performed a utilization review as this document does not contain the following required elements of a utilization review:

- Sufficient evidence that Memorial was given an opportunity to discuss the compound prior to the insurance carrier’s denial based on medical necessity;
- A description of the appeal process, including immediate independent review for life-threatening conditions; and

¹ 28 Texas Administrative Codes §§133.305(b) and 133.307(c)(1)(B)(i)

² 28 Texas Administrative Code §133.305(b)

³ 28 Texas Administrative Code §133.240(q)

- Notice of the independent review process.⁴

The division concludes that this dispute is not subject to dismissal based on medical necessity.

3. In its position statement, Flahive, Ogden & Latson argued that the requestor is not eligible for reimbursement, in part, for lack of preauthorization.

The insurance carrier may only address denial reasons raised before the request for medical fee dispute resolution (MFDR) was requested. Any other issues raised in the response will not be considered.⁵

The documents submitted to the division do not show that Hartford gave denial reasons related to preauthorization to Memorial before the date the request for MFDR was filed.⁶ The division concludes that these arguments in Flahive, Ogden & Latson’s position statement will not be considered for review because they are new defenses.

4. Because Hartford failed to support its denial of reimbursement, Memorial is entitled to reimbursement in accordance with applicable rules and laws.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately.⁷ Each ingredient is listed below with its reimbursement amount.⁸ The calculation of the total allowable amount is as follows:

Drug	NDC	Generic(G) /Brand(B)	Price /Unit	Units Billed	AWP Formula	Billed Amt	Lesser of AWP and Billed
Amantadine	38779041105	G	\$24.23	4.8	\$145.35	\$116.30	\$116.30
Flurbiprofen	38779036209	G	\$36.58	4.8	\$219.48	\$175.58	\$175.58
Gabapentin	38779246109	G	\$59.85	3	\$224.44	\$179.55	\$179.55
Amytriptyline	38779018904	G	\$18.24	2.4	\$54.72	\$43.78	\$43.78
Bupivacaine	38779052405	G	\$45.60	1.2	\$68.40	\$54.72	\$54.72
						Total	\$569.93

The total allowable reimbursement for the compound in dispute is \$569.93. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$569.93.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$569.93, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

Signature

Laurie Garnes
Medical Fee Dispute Resolution Officer

September 24, 2018
Date

⁴ 28 Texas Administrative Code §19.2009(b)

⁵ 28 Texas Administrative Code §133.307(d)(2)(F)

⁶ 28 Texas Administrative Code §133.240 explains how the insurance carrier is required to introduce denials and payment reductions to the requestor.

⁷ 28 Texas Administrative Code §134.502(d)(2)

⁸ 28 Texas Administrative Code §134.503(c)

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.